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**IN THE UNITED STATES DISTRICT COURT,  
DISTRICT OF UTAH**

**LAURA A. GADDY**, individually and  
on behalf of all others similarly  
situated,

*Plaintiffs,*

v.

**CORPORATION OF THE  
PRESIDENT OF THE CHURCH OF  
JESUS CHRIST OF LATTER-  
Day SAINTS**, a Utah corporation  
sole.

*Defendant*

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**REPLY to DEFENDANT’S RESPONSE to  
“MOTION FOR PERMISSION to FILE  
‘MOTION for LEAVE to FILE SECOND  
AMENDED COMPLAINT and MOTION  
FOR LEAVE to FILE OVERLENGTH  
MEMORANDUM in SUPPORT  
THEREOF’”**

(DEMAND FOR JURY TRIAL)

**2:19-cv-00554-RJS--DBP**

Presiding Judge: Robert J. Shelby

Magistrate Judge: Dustin B. Pead.

Defendant’s response is contradictory, in part perhaps due to the vagueness of the interplay of the applicable procedural rules as applied in this case. On one hand, it appears to have no objection to Plaintiff filing a Motion for Leave to File a Second Amended Complaint (“2AC”): “Ms. Gaddy is, and always has been, free to file a motion for leave to file a second amended complaint. She needs neither the Court’s permission nor a stipulation from the Church to do so. See [Fed. R. Civ. P. 15\(a\)\(2\)](#).” [Response, ECF #81, p. 2].

On the other hand, Defendant criticizes motions and notices filed after her Opposition to its “Motion to Dismiss the Amended Complaint” as being in violation of a local rule: “[n]o additional memoranda will be considered without leave of court.” [UT R USDCT CIV DUCivR 7-1](#), [D.Ut. DUCivR 7-1](#). [Defendant’s response, ECF #81, p. 3].

Case law has interpreted that the above local rule applies to briefing related to the underlying 12(b) or Rule 56 motion. See [Anastasion v. Credit Serv. of Logan, Inc., No. 2:08-CV-180 TS, 2010 WL 2754846, at \\*1 \(D. Utah July 12, 2010\)](#).

But Defendant argues that motions filed by Plaintiff are just such memoranda and therefore improper. Those listed by Defendant include a motion for judicial notice (which can be filed at any time), motions for overlength memoranda and extensions of time within which to file, both of which were clearly proper and both of which had been requested by Defendant (and stipulated to by Plaintiff) in the course of their briefing over this case. It also lists notices of supplemental authority, which are specifically allowed.

The subject Motion asking for permission for leave to file the “Motion for Leave to File a Second Amended Complaint,” prior to the Court issuing an opinion on the “Motion to Dismiss the Amended Complaint” could be construed as just such prohibited memoranda related to the Motion to Dismiss the Amended Complaint—one that requires the Court’s permission.

Plaintiff did not want to violate the local rule or usurp the Court’s authority by filing a motion for leave to file a 2AC (which Defendant, given the rationale in its Response, could argue is a violation of [DUCivR 7-1\(b\)](#)), because if leave to file the 2AC is granted, it could make a Court order on the Amended Complaint moot, and therefore

is arguably “additional memorandum” referenced in the local rule, absent permission as that rule requires.

The rule is vague in its application to the current procedural posture of this case, especially in light of [Seid v. Univ. of Utah](#), No. 2:19-CV-00112, 2020 WL 6873833, at \*11 (D. Utah Nov. 23, 2020). Therefore, Plaintiff filed this “Motion for Permission to File ‘Motion for Leave to File Second Amended Complaint and Motion for Leave to File Overlength Memorandum In Support Thereof.’”

Plaintiff intends only to spare the Court additional work if she can demonstrate to the Court’s satisfaction that a 2AC would address issues previously identified by the Court as vulnerable to 12(b)(6) dismissal. However, she needs 3,550 (as opposed to 2,500) words to do that. Should the Court deny the underlying motion, Plaintiff must adequately preserve the issues on appeal, given that the standard of review on appeal from denial of a motion to file an amended complaint is an abuse of discretion.

Respectfully submitted,

DATED: March 8, 2021.

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